

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

NASICHE ROSE

v.

**JASON STEPHENSON & BRINK'S
INCORPORATED**

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§
§
§
§

CIVIL ACTION 1:17-CV-764

JURY

DEFENDANT BRINK'S INCORPORATED'S NOTICE OF REMOVAL

COMES NOW, Brink's Incorporated, and through this Notice of Removal hereby removes Cause No. D-1-GN-17-003201 filed in the 98th District Court of Travis County, Texas, and in support thereof states as follows:

I.

This civil action is a matter over which this Court has original jurisdiction by virtue of 28 U.S.C. §1332 and is one which may be removed to this Court by Defendant Brink's Incorporated under the provisions of 28 U.S.C. §1441(b), in that it is a civil action among diverse parties who are citizens of different states, and plaintiff's claims involve an amount in controversy that exceeds \$75,000, exclusive of costs and interest. No previous application has been made for the relief requested herein.

II.

This negligence action arises out of an auto accident involving vehicles driven by Plaintiff and Defendant Stephenson that occurred on March 9, 2016 in Travis County, Texas. Plaintiff seeks personal injury damages through this lawsuit. Defendants assert contributory negligence by Plaintiff. Plaintiff and Defendants included a jury demand in their original state court pleadings.

III.

This action was originally filed on July 13, 2017 in the 98th District Court of Travis County, Texas by Plaintiff. Exhibit 5. Both Defendants answered on August 7, 2017. Exhibit 8. As such, all

parties have appeared in this litigation. In accordance with 28 USC §1446(a), 1447(b) and 1449, all state-court pleadings and answers as well as all processes and orders served on or by the removing Defendant are attached hereto as Exhibits 5 – 8. Aside from issuing citation, the state court has not taken any action relative to this case. *See* Exhibit 3.

IV.

Defendant Brink's Incorporated first received Plaintiff's Original Petition after its registered agent in Texas, CT Corporation, was served with process on July 17, 2017. *See* Exhibit 6. As such, this Notice of Removal is timely filed within 30 days of service on Brink's. *See* 28 U.S.C. §1446(b)(1).

V.

Plaintiff's Original Petition states that Plaintiff seeks to recover monetary relief in an amount in excess of \$1,000,000.00. *See* Exhibit 5 at ¶ 8.03. As such, the amount in controversy exceeds the jurisdictional amount required for removal based on diversity pursuant to 28 U.S.C. §§ 1332 and 1441.

VI.

At and since the time of filing this action, Plaintiff was and is a citizen of, and domiciled in, the State of Texas. Brink's Incorporated is incorporated in Delaware and maintains its principal place of business in Virginia, and therefore was and is a citizen of both Delaware and Virginia both at the time of the filing of this action and at the time of removal. At and since the time of filing this action, Jason Stephenson was and is a citizen of, and domiciled in, the State of Utah. Accordingly, no plaintiff is a citizen of the same state as any defendant. As such, there is complete diversity between Plaintiff and all Defendants, as is required by 28 U.S.C. §1332.

VII.

Pursuant to 28 U.S.C. §1446(b)(2)(a), all defendants to the state court action consent to the removal of the state court action filed by Plaintiff.¹

VIII.

Pursuant to 28 U.S.C. §124, the 98th District Court of Travis County Texas is located within the Austin Division of the Western District of Texas. Therefore, venue is proper in accordance with 28 U.S.C. §1441(a) because it is the “district and division embracing the place where such action is pending.”

IX.

Pursuant to 28 U.S.C. §1446(a), the following exhibits are attached hereto:

Exhibit 1 – Civil Cover Sheet;

Exhibit 2 – Supplemental Civil Cover Sheet;

Exhibit 3 – State Court’s Online Docket Sheet;

Exhibit 4 – Index of State Court Filings;

Exhibit 5 – Plaintiff’s Original Petition;

Exhibit 6 – Citation to Defendant Brink’s Incorporated;

Exhibit 7 – Citation to Defendant Jason Stephenson; and

Exhibit 8 – Defendants’ Original Answer.

Additionally, Defendant’s Certificate of Interested Persons shall be filed separately as required by Fed. R. Civ. P. 7.1.

¹ The undersigned counsel represents all Defendants in the lawsuit.

X.

Pursuant to 28 U.S.C. §1446(d), a copy of this Notice of Removal will be promptly filed with the Clerk of the Court for the 98th District Court of Travis County, Texas, and served on counsel for Plaintiff.

WHEREFORE, Defendant Brink's Incorporated prays that the action now pending against it in the 98th District Court of Travis County, Texas, bearing Cause No. D-1-GN-17-003201, be removed to this Honorable Court for a trial by jury on all issues of fact.

Respectfully submitted,

By: /s/ Jeffrey R. Ross
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ATTORNEY FOR DEFENDANTS

CERTIFICATE OF SERVICE

I do hereby certify that on August 14, 2017, a true and correct copy of the above and foregoing document has been forwarded to Plaintiff's counsel through the Court's electronic filing system.

/s/ Jeffrey R. Ross
Jeffrey R. Ross